

COUNCIL OF THE CITY OF ABERDEEN
Ordinance No. 15-O-03

Introduced By: Mayor Michael E. Bennett

Date Introduced: October 19, 2015

Amendments Adopted:

Date Adopted:

Date Effective:

ORDINANCE NO. 15-O-03

AN ORDINANCE concerning

EXCLUSION FROM PUBLIC PARKS

FOR the purpose of establishing circumstances under which individuals may be excluded from public parks in the City of Aberdeen for certain periods of time; establishing a procedure for excluding individuals from public parks; providing that an individual who is present in a public park after having been excluded from the park is guilty of a misdemeanor and subject to certain penalties; providing that the provisions of this Ordinance are severable; and generally relating to the exclusion of certain individuals from public parks in the City of Aberdeen.

BY renumbering
Chapter 406. Parks
Sections 406-1 through 406-18
To be under new Article I, General
Code of the City of Aberdeen (2010 Edition as amended)

BY repealing and reenacting, with amendments
Chapter 406. Parks
Section 406-18(a)
Article I, General
Code of the City of Aberdeen (2010 Edition as amended)

BY adding
Chapter 406. Parks
Sections 406-19 through 406-25
Article II, Exclusion from Public Parks
Code of the City of Aberdeen (2010 Edition as amended)

EXPLANATION:

CAPITALS INDICATE MATTER ADDED TO EXISTING LAW

((Double Parenthesis)) indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike Out~~ indicates matter stricken from bill by amendment or deleted from the law by amendment.

* * * indicates existing unmodified text omitted from Ordinance

SECTION 1. BE IT ENACTED BY THE COUNCIL OF THE CITY OF ABERDEEN, that Sections 406-1 through 406-18, inclusive, Chapter 406, Parks, of the Code of the City of Aberdeen (2010 Edition as amended), are renumbered to be under new Article I, General, of said Code and Chapter.

SECTION 2. AND BE IT FURTHER ENACTED BY THE COUNCIL OF THE CITY OF ABERDEEN, that Section 406-18(a) of the Code of the City of Aberdeen (2010 Edition as amended), Article 1, General, is hereby repealed and reenacted, with amendments, to read as follows:

Chapter 406. PARKS

ARTICLE I, General

§ 406-18. Violations and penalties.

A. A violation of this ((chapter)) ARTICLE is deemed to be a municipal infraction. Any person violating any provision of this ((chapter)) ARTICLE shall be subject to the following civil penalties:

(1) First offense: \$50.

(2) Second offense: \$200.

(3) Third offense: \$400.

SECTION 3. AND BE IT FURTHER ENACTED BY THE COUNCIL OF THE CITY OF ABERDEEN, that new Sections 406-19 through 406-25, inclusive, be and they hereby are added to the Code of the City of Aberdeen (2010 Edition as amended), to be under new Article II, Exclusion From Public Parks, to follow immediately after Section 406-18 of Article I, and to read as follows:

Chapter 406. PARKS

ARTICLE II, EXCLUSION FROM PUBLIC PARKS

§ 406-19. DEFINITIONS.

AS USED IN THIS ARTICLE THE TERM “PUBLIC PARKS” MEANS THE FOLLOWING PARKS LOCATED IN THE CITY OF ABERDEEN:

- (1) FESTIVAL PARK;
- (2) VETERANS PARK;
- (3) DE MARCO PARK;
- (4) LIBERTY PARK;
- (5) NORTH DEEN PARK;
- (6) PLATER STREET PARK; AND
- (7) ANY OTHER PARK OWNED BY THE CITY OF ABERDEEN.

§ 406-20. EXCLUSION FROM PUBLIC PARKS; PENALTY.

- A. THE CITY OF ABERDEEN MAY EXCLUDE AN INDIVIDUAL FROM PUBLIC PARKS BY ISSUING AN EXCLUSION ORDER IN ACCORDANCE WITH THIS ARTICLE.
- B. AN INDIVIDUAL WHO IS PRESENT IN A PUBLIC PARK WHILE UNDER AN EXCLUSION ORDER ISSUED UNDER THIS ARTICLE, AND WHO DOES NOT LEAVE THE PARK PROMPTLY AFTER BEING REQUESTED TO DO SO BY THE ABERDEEN POLICE DEPARTMENT, IS GUILTY OF A MISDEMEANOR AND SUBJECT TO A FINE OF \$500, IMPRISONMENT FOR 60 DAYS, OR BOTH FINE AND IMPRISONMENT.

§ 406-21. GROUNDS FOR EXCLUSION FROM PUBLIC PARKS.

THE CHIEF OF THE ABERDEEN POLICE DEPARTMENT MAY ISSUE ONE OR MORE EXCLUSION ORDERS TO AN INDIVIDUAL WHO PLEADS GUILTY, IS CONVICTED AFTER TRIAL, PLEADS *NOLO CONTENDERE*, OR DOES NOT CONTEST A CITATION, WITH RESPECT TO THREE OR MORE OF THE FOLLOWING VIOLATIONS OF CITY OR STATE LAW COMMITTED IN PUBLIC PARKS WITHIN ONE OR MORE ROLLING 12 CALENDAR MONTHS PERIODS:

- (1) A VIOLATION OF ANY PROVISION OF THE CRIMINAL LAW ARTICLE OF THE MARYLAND ANNOTATED CODE.
- (2) A VIOLATION OF ANY PROVISION OF TITLE 19 OF ARTICLE 2B OF THE MARYLAND ANNOTATED CODE.
- (3) A VIOLATION OF CHAPTER 263 (FIREARMS) OF THE ABERDEEN CITY CODE.

- (4) A VIOLATION OF CHAPTER 344 (LITTERING) OF THE ABERDEEN CITY CODE.
- (5) A VIOLATION OF §406-13 (FIREARMS) OF THE ABERDEEN CITY CODE.
- (6) A VIOLATION OF §406-14 (REFUSE) OF THE ABERDEEN CITY CODE.
- (7) A VIOLATION OF §406-17 (CONTROLLED DANGEROUS SUBSTANCES AND ALCOHOLIC BEVERAGES) OF THE ABERDEEN CITY CODE.
- (8) A VIOLATION OF §413-4 (PUBLIC LEWDNESS) OF THE ABERDEEN CITY CODE.

§ 406-22. DURATION AND EFFECT OF EXCLUSION ORDER.

- A. AN EXCLUSION ORDER PROHIBITS AN INDIVIDUAL FROM BEING PRESENT IN PUBLIC PARKS AS LONG AS THE EXCLUSION ORDER IS IN EFFECT.
- B. AN EXCLUSION ORDER IS IN EFFECT FOR:
 - (1) THREE MONTHS FROM THE DATE THAT THE ORDER IS ISSUED FOR THE FIRST EXCLUSION ORDER IN A 12 CALENDAR MONTHS PERIOD;
 - (2) SIX MONTHS FROM THE DATE THAT THE ORDER IS ISSUED FOR A SECOND EXCLUSION ORDER IN THE 18 CALENDAR MONTHS PERIOD FOLLOWING THE ISSUANCE OF THE FIRST EXCLUSION ORDER; AND
 - (3) ONE YEAR FROM THE DATE THAT THE ORDER IS ISSUED FOR THE THIRD AND SUBSEQUENT EXCLUSION ORDERS IN THE 24 CALENDAR MONTHS PERIODS FOLLOWING THE ISSUANCE OF THE SECOND AND SUBSEQUENT EXCLUSION ORDERS.
- C. IF AN INDIVIDUAL TO WHOM THE CHIEF OF POLICE ISSUES AN EXCLUSION ORDER FILES A TIMELY APPEAL OF THE EXCLUSION ORDER TO THE CITY MANAGER AS PROVIDED IN § 406-23, THE EFFECTIVENESS OF THE REMAINDER OF THE EXCLUSION ORDER IS STAYED UNTIL THE CITY MANAGER ISSUES A DECISION ON THE APPEAL. IF THE CITY MANAGER AFFIRMS THE EXCLUSION ORDER, THE REMAINING PERIOD OF EXCLUSION SHALL BE EFFECTIVE IMMEDIATELY UPON THE ISSUANCE OF THE CITY MANAGER'S DECISION, UNLESS THE CITY MANAGER SPECIFIES A LATER EFFECTIVE DATE.

§ 406-23. ISSUANCE OF EXCLUSION ORDERS.

1
2 A. WHEN THE CHIEF OF POLICE BECOMES AWARE THAT AN INDIVIDUAL HAS
3 COMMITTED THREE OR MORE OFFENSES WITHIN A 12 CALENDAR MONTHS
4 PERIOD THAT SATISFY THE REQUIREMENTS OF SECTION 406-21 FOR THE
5 ISSUANCE OF AN EXCLUSION ORDER, THE CHIEF SHALL ISSUE AN
6 EXCLUSION ORDER AND CAUSE THE ORDER TO BE SERVED UPON THE
7 INDIVIDUAL BY HAND DELIVERY OR BY ANY OTHER MEANS THAT
8 RESULTS IN THE INDIVIDUAL PERSONALLY RECEIVING THE EXCLUSION
9 ORDER.

10
11 B. AN EXCLUSION ORDER SHALL CONTAIN AT LEAST THE FOLLOWING
12 INFORMATION:

13
14 (1) THE NAME OF THE INDIVIDUAL WHO IS THE SUBJECT OF THE
15 EXCLUSION ORDER, AND THAT INDIVIDUAL'S LAST KNOWN
16 ADDRESS AS REASONABLY DETERMINED FROM JUDICIAL OR CITY
17 RECORDS;

18
19 (2) THE DATE OF THE EXCLUSION ORDER;

20
21 (3) THE SPECIFIC OFFENSES, AND DATES OF THOSE OFFENSES, THAT
22 SERVE AS THE BASIS FOR THE EXCLUSION ORDER;

23
24 (4) THE DURATION OF THE EXCLUSION ORDER;

25
26 (5) THE FOLLOWING STATEMENT IN **BOLD TEXT**:

27
28 **“DURING THE PERIOD OF THIS EXCLUSION ORDER YOU**
29 **MAY NOT BE PRESENT IN THE FOLLOWING PUBLIC PARKS**
30 **IN THE CITY OF ABERDEEN: [LIST PARKS]**

31
32 **IF YOU ARE PRESENT IN ONE OF THESE PUBLIC PARKS IN**
33 **VIOLATION OF THIS EXCLUSION ORDER YOU WILL BE**
34 **GUILTY OF A MISDEMEANOR AND SUBJECT TO A FINE OF**
35 **\$500, IMPRISONMENT FOR UP TO 60 DAY, OR BOTH FINE AND**
36 **IMPRISONMENT.”**

37
38 (6) THE FOLLOWING STATEMENT IN **BOLD TEXT**:

39
40 **YOU MAY APPEAL THIS EXCLUSION ORDER BY FILING A**
41 **WRITTEN NOTICE OF APPEAL OF THIS EXCLUSION ORDER**
42 **WITHIN FIVE BUSINESS DAYS AFTER YOU RECEIVE IT. YOU**
43 **MUST DELIVER THE WRITTEN NOTICE OF APPEAL TO THE**
44 **CITY MANAGER AT ABERDEEN CITY HALL, 60 N. PARKE**
45 **STREET, ABERDEEN, MARYLAND 21001.**

1
2 **YOUR NOTICE OF APPEAL MUST INCLUDE (I) YOUR NAME,**
3 **ADDRESS AND TELEPHONE NUMBER OR OTHER**
4 **TELECOMMUNICATIONS CONTACT INFORMATION TO**
5 **WHICH THE CITY MANAGER MAY DELIVER, AND YOU MAY**
6 **RECEIVE, NOTICES PROMPTLY, (II) A COPY OF THIS**
7 **EXCLUSION ORDER, (III) A STATEMENT OF THE REASONS**
8 **WHY YOU BELIEVE THAT THE CHIEF OF POLICE ISSUED**
9 **THE EXCLUSION ORDER IN ERROR, AND (IV) THE REASONS**
10 **WHY THE CITY MANAGER SHOULD RESCIND OR MODIFY**
11 **THE EXCLUSION ORDER. UPON RECEIPT OF A NOTICE OF**
12 **APPEAL THAT IS DELIVERED TO THE CITY MANAGER**
13 **TIMELY, THE CITY MANAGER WILL NOTIFY YOU OF THE**
14 **DATE AND TIME OF A HEARING ON YOUR APPEAL. YOU**
15 **MAY BE REPRESENTED BY AN ATTORNEY AT THE APPEAL**
16 **HEARING.**

17
18 (7) THE SIGNATURE OF THE CHIEF OF POLICE.

19
20 **§ 406-24. APPEALS OF EXCLUSION ORDERS.**

- 21
22 A. AN INDIVIDUAL TO WHOM THE CHIEF OF POLICE HAS ISSUED AN
23 EXCLUSION ORDER MAY APPEAL THE EXCLUSION ORDER TO THE CITY
24 MANAGER AS PROVIDED IN THIS SECTION.
25
26 B. AN INDIVIDUAL MUST FILE AN APPEAL IN WRITING WITHIN FIVE BUSINESS
27 DAYS AFTER THE INDIVIDUAL RECEIVES THE EXCLUSION ORDER. A
28 NOTICE OF APPEAL:
29
30 (1) SHALL BE DELIVERED TO THE CITY MANAGER AT ABERDEEN CITY
31 HALL DURING NORMAL CITY BUSINESS HOURS;
32
33 (2) SHALL INCLUDE THE NAME, ADDRESS AND TELEPHONE NUMBER OR
34 OTHER TELECOMMUNICATIONS CONTACT INFORMATION TO WHICH
35 THE CITY MANAGER MAY DELIVER, AND THE INDIVIDUAL MAY
36 RECEIVE, NOTICES PROMPTLY; AND
37
38 (3) SHALL INCLUDE A COPY OF THE EXCLUSION ORDER AND SET
39 FORTH THE REASONS WHY THE INDIVIDUAL BELIEVES THAT THE
40 CHIEF OF POLICE ISSUED THE EXCLUSION ORDER IN ERROR, AND
41 THE REASONS WHY THE EXCLUSION ORDER SHOULD BE RESCINDED
42 OR MODIFIED.
43
44 C. THE CITY MANAGER SHALL SCHEDULE A DE NOVO HEARING ON A TIMELY
45 FILED APPEAL PROMPTLY AFTER RECEIVING THE NOTICE OF APPEAL. THE

CITY MANAGER SHALL NOTIFY THE INDIVIDUAL OF THE DATE, TIME AND LOCATION OF THE APPEAL HEARING AT THE ADDRESS, TELEPHONE NUMBER OR OTHER TELECOMMUNICATIONS CONTACT INFORMATION THAT THE INDIVIDUAL INCLUDES IN THE NOTICE OF APPEAL.

D. AT THE APPEAL HEARING THE CITY MANAGER SHALL HEAR TESTIMONY AND RECEIVE EVIDENCE FROM THE CHIEF OF POLICE, THE INDIVIDUAL WHO FILED THE APPEAL, AND ANY OTHER PERSON THE CITY MANAGER DEEMS APPROPRIATE.

E. AFTER THE CONCLUSION OF THE APPEAL HEARING THE CITY MANAGER SHALL ISSUE A WRITTEN DECISION THAT AFFIRMS, MODIFIES OR RESCINDS THE EXCLUSION ORDER AS THE INTERESTS OF JUSTICE MAY REQUIRE BASED UPON A PREPONDERANCE OF THE EVIDENCE PRESENTED TO THE CITY MANAGER, EXCEPT THE CITY MANAGER MAY NOT AFFIRM OR MODIFY THE EXCLUSION ORDER UNLESS THE CITY MANAGER FINDS THAT THE ISSUANCE OF THE EXCLUSION ORDER COMPLIED WITH THE REQUIREMENTS OF THIS ARTICLE. THE CITY MANAGER SHALL ACT AS PROMPTLY FOLLOWING THE CONCLUSION OF THE HEARING AS PRACTICABLE.

F. THE WRITTEN DECISION OF THE CITY MANAGER IS A FINAL ADMINISTRATIVE DECISION THAT IS SUBJECT TO JUDICIAL REVIEW AS AUTHORIZED BY STATE LAW. THE CITY MANAGER'S DECISION IS NOT STAYED BY JUDICIAL REVIEW EXCEPT AS MAY BE PROVIDED BY STATE LAW.

§ 406-25. IMMEDIATE REMOVAL FROM PUBLIC PARK.

A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AN OFFICER OF THE ABERDEEN POLICE OFFICER SHALL IMMEDIATELY REMOVE FROM A PUBLIC PARK, WITHOUT AN EXCLUSION ORDER, AN INDIVIDUAL WHO:

(1) COMMITS AN OFFENSE IN THE PARK IN THE PRESENCE OF THE OFFICER; AND

(2) REFUSES TO LEAVE THE PARK AFTER THE OFFICER REQUESTS THE INDIVIDUAL TO DO SO.

B. AN INDIVIDUAL WHO LEAVES OR IS REMOVED FROM A PUBLIC PARK IN ACCORDANCE WITH SUBSECTION A. OF THIS SECTION MAY NOT RETURN TO THE PARK FOR THE REMAINDER OF THAT DAY.

1 **SECTION 4. BE IT FURTHER ENACTED BY THE COUNCIL OF THE CITY**
2 **OF ABERDEEN**, that the provisions of this Ordinance are severable. If any provision of this
3 Ordinance, or the application of this Ordinance or any part of this Ordinance to any individual or
4 situation is determined by a Court to be unlawful or unenforceable, the remainder of this
5 Ordinance, and the lawful application of this Ordinance to other individuals and situations, shall
6 remain in full force and effect.

7
8 **SECTION 5. BE IT FURTHER ENACTED BY THE COUNCIL OF THE CITY**
9 **OF ABERDEEN**, that this Ordinance shall become effective at the expiration of twenty (20)
10 calendar days following adoption.

COUNCIL OF THE CITY OF ABERDEEN

Michael E. Bennett, Mayor

Ruth E. Elliott, Councilwoman

Sandra J. Landbeck, Councilwoman

Stephen A. Smith, Councilman

Ruth Ann Young, Councilwoman

ATTEST:

SEAL:

Monica A. Correll, City Clerk

Date _____